

## Chapter 5.28

### SALE OF FIREWORKS

## Sections:

- 5.28.005 Purpose.
- 5.28.010 Permit required.
- 5.28.015 Application requirements.
- 5.28.020 Permit fee.
- 5.28.030 Dangerous fireworks prohibited.
- 5.28.040 Dates when sale permitted.
- 5.28.050 Dates when use permitted.
- 5.28.060 Number of permits limited.
- 5.28.070 Permit coverage—Transfer of permit prohibited.
- 5.28.080 Prerequisite to issuance of license.
- 5.28.085 Retail sale of fireworks—Sale locations.
- 5.28.090 Terms and conditions for issuance of retail sale permit.
- 5.28.100 Temporary stands.
- 5.28.110 Application of chapter.
- 5.28.115 Approved storage facilities required.
- 5.28.120 Interpretation and construction of chapter.
- 5.28.130 Enforcement.
- 5.28.135 Seizure of fireworks.
- 5.28.137 Seizure of fireworks—Petition for return—Decision—Judicial action.
- 5.28.140 Penalty.

### **5.28.005 Purpose.**

The purpose of this chapter is to implement and supplement the state Fireworks Law, Chapter 70.77 RCW. The provisions of this ordinance shall be construed and applied in accordance with the definitions, requirements and prohibitions of said state law and all rules and regulations issued by the State Fire Marshal pursuant thereto. (Sec. 1 of Ord. 1982-05-68)

### 5.28.015 Application requirements.

- (1) Applications for permits required by this chapter shall be submitted in such form and detail as reasonably prescribed by the fire marshal. Such applications shall include at a minimum the applicable permit fees and debris deposit(s); state license(s), a drawing of the stand and other key features on the site, insurance certificate(s), storage sites and arrangements; and the names, addresses and phone numbers of the applicant(s) and responsible party(ies).
- (2) No later than 5:00 P.M. on the last official county workday of May in the calendar year for which the applicant is seeking a permit, the applicant shall file a fully complete application for the retail sale of fireworks; PROVIDED, all persons who held a permit the previous year who seek reissuance of permits shall file with the fire marshal a written "confirmation of intent to apply" by the

last business day of January of the year for which a permit is sought to maintain their priority status. Those permit holders who do not follow this procedure will forfeit their priority status and the permit will automatically be set aside to be awarded through a lottery process, provided that available permits will first be allocated to satisfy the requirements of CCC 5.28.060(1). All persons interested in applying for available permits shall file with the fire marshal a Fireworks Lottery Application by the last business day of January of the year for which a permit is sought.

- (3) Fully complete applications for a public display or other discharge of common or special fireworks must be received by the fire marshal no later than 5:00 p.m. fourteen (14) calendar days prior to the intended display. (Sec. 2 of Ord. 1999-12-01)

**5.28.020 Permit fee.**

To cover administrative costs for permit processing and inspection, the annual permit fee for each permit required by Section 5.28.010 shall be as set forth in 6.120 per annum, payable in advance to the Clark County fire prevention bureau. (Section 2 of Ord. 1977-06-2; amended by Sec. 3 of Ord. 1982-05-68; amended by Sec. 2 of Ord. 1997-12-46)

**5.28.030 Dangerous fireworks prohibited.**

(Sec. 3 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

**5.28.040 Dates when sale permitted.**

No common fireworks shall be sold or offered for sale at retail, except from 12:00 noon on the 28th day of June to 9:00 p.m. on the 5<sup>th</sup> day of July of any year. Further, the sale and discharge of common fireworks are expressly prohibited at any time surrounding the new year, including December 31st. (Sec. 4 of Ord. 1977-06-2; amended by Sec. 4 of Ord. 1982-05-68; amended by Sec. 1 of Ord. 1997-05-10)

**5.28.050 Dates when use permitted.**

No person shall use or explode any fireworks within the unincorporated areas of the county of Clark except from 12:00 noon on the 28th day of June to 11:00 p.m. on the 5<sup>th</sup> day of July of any year; provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state of Washington. (Sec. 5 of Ord. 1977-06-2)

**5.28.060 Number of permits limited.**

- (1) No person, firm or corporation acting as principal shall receive more than one (1) permit for the retail sale of fireworks during any one (1) calendar year. For the purposes of this chapter, separate chapters of an organization shall not be

considered the same person, firm or corporation, except that a maximum of six (6) permits are reserved for the Vancouver National Historic Reserve Trust (hereinafter "VNHRT") or its successor for the purpose of providing financial support for the community-wide fireworks display that takes place on the fourth of July at the Fort Vancouver National Historic Reserve.

(2) The maximum number of permits which may be issued pursuant to this chapter for retail sale of common fireworks is subject to the following provisions:

(a) The number of retail sale permits may be increased at a ratio of one permit to every five thousand (5,000) persons living in the unincorporated area as that number is provided in the year-end population estimate by Clark County Assessment and GIS in January of each year to be allocated pursuant to the process set out in CCC 5.28.015.

(b) If the population decreases as a result of annexation, attempts shall be made to transfer permits for stands in the annexed area to the annexing city.

(c) The number of retail sale permits shall be decreased as applicants cease to seek reissuance only where the ratio of the number of permits to current population in the unincorporated area exceeds one to five thousand (1:5,000). (Sec. 6 of Ord. 1977-06-2; amended by Sec. 5 of Ord. 1982-05-68; amended by Sec. 1 of Ord. 1993-06-37; amended by Sec. 2 of Ord. 1997-05-10; amended by Sec. 3 of Ord. 1999-12-01)

#### **5.28.070 Permit coverage—Transfer of permit prohibited.**

A separate permit granted pursuant to this chapter shall be obtained for each activity requiring a permit pursuant to Section 5.28.010 and for each location at which the same activity is undertaken. All permits issued, permission granted or rights obtained by acquiring a permit shall be used only by the designated permittee and shall not be assigned, sublet or otherwise transferred. Any such transfer or purported transfer of such permit, permissions granted or rights obtained by acquiring a permit shall be deemed a violation of this chapter and shall void the permit. (Sec. 7 of Ord. 1977-06-2; amended by Sec. 6 of Ord. 1982-05-68; amended by Sec. 2 of Ord. 1993-06-37; amended by Sec. 4 of Ord. 1999-12-01)

#### **5.28.080 Prerequisite to issuance of license.**

(Sec. 8 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

#### **5.28.085 Retail sale of fireworks—Sale locations.**

The retail sale of common fireworks shall be permitted only from:

123 (1) Permanent buildings used for no other purpose than the importation, storage,  
124 wholesaling and/or retailing of fireworks; provided, that:  
125 (a) Such structure shall be approved by the building official and fire marshal  
126 for Group H, Division I occupancy under 14.05 (International Building  
127 Code) and 15.12 (International Fire Code) of this code; and  
128 (b) The use of such structure shall conform to zoning, health, fire, safety and  
129 other applicable ordinances and regulations; and  
130 (c) The operational provisions of Chapter 212-17 WAC pertaining to the  
131 operation of temporary fireworks stands shall apply as well to retail sales  
132 from permanent structures.

133 (2) Temporary stands; provided, that:  
134 (a) Such stands shall comply with the applicable provisions of Chapter 70.77  
135 RCW and Chapter 212-17 WAC. (Sec. 7 of Ord. 1982-05-68; amended by  
136 Sec. 5 of Ord. 1999-12-01)

137 **5.28.090 Terms and conditions for issuance of retail sale permit.**  
138

139 A permit for retail sale of common fireworks shall be issued only upon the  
140 following terms and conditions:

141 (1) The applicant shall have a valid license issued by the state of Washington  
142 authorizing the holder thereof to engage in the retail sale of fireworks. In  
143 addition, neither the applicant nor the responsible party for the permit shall  
144 have been convicted of a felony unless the conviction was discharged  
145 pursuant to RCW 9.94A.637 or 13.50.050; or a fire/fireworks-related  
146 misdemeanor within the last three (3) years.

147 (2) In addition to the other requirements of Chapter 70.77 RCW, the applicant  
148 shall procure and maintain a policy or policies of public general liability, bodily  
149 injury and property damage insurance in a company or companies approved  
150 by the county in the minimum amount of one million dollars (\$1,000,000) single  
151 limit; Clark County shall be named as an additional insured. Certificates of  
152 coverage shall be filed with the county fire marshal upon application for a retail  
153 sales permit.

154 (3) The applicant's location or place of business shall be only in those areas or  
155 zones within the county wherein commercial or industrial activities are  
156 authorized under the applicable zoning laws of the county; provided, that no  
157 fireworks shall be sold in any residential area where a commercial enterprise  
158 does not exist.

159 (4) The applicant for a retail sales permit shall post either a five hundred dollar  
160 (\$500) cash deposit, or other equivalent security as reasonably required by the  
161 fire marshal, conditioned upon the prompt removal of the temporary stand and  
162 the cleaning up of all debris from the site. If the applicant removes such  
163 temporary stand and cleans up all debris no later than 11:59 p.m., July 15th,

he shall be entitled to the return of his deposit. If the stand is not removed and debris cleaned up, the five hundred dollar (\$500) deposit will be forfeited and placed in Clark County general fund.

- (5) Such permit shall be issued or denied by the county fire marshal and subject to the same appeal procedure and standard as an appeal of a Type I procedure under Sections 40.100.050(A) and 40.500.010(A). (Sec. 9 of Ord. 1977-06-2; amended by Sec. 8 of Ord. 1982-05-68; amended by Sec. 6 of Ord. 1999-12-01)

#### **5.28.100 Temporary stands.**

Temporary stands, structures or facilities used for the retail sale or temporary storage of common fireworks shall be in accordance with the applicable portions of Chapter 70.77 RCW and Chapter 212-17 WAC. (Sec. 10 of Ord. 1977-06-2; amended by Sec. 9 of Ord. 1982-05-65; amended by Sec. 7 of Ord. 1999-12-01) In addition to the above requirements, each retail fireworks stand shall provide signage indicating the dates and times fireworks may be legally discharged in Clark County. Such signage must be placed where it is easily readable by the public at or near where the sales transactions occur. The sign shall contain the following information: Fireworks may be discharged in Clark County only during the following dates and times – June 28 from 12:00 noon to 11:00 p.m.; June 29 through July 3 from 9:00 a.m. to 11:00 p.m.; July 4 from 9:00 a.m. to 12:00 a.m. (midnight); July 5 from 9:00 a.m. to 11:00 p.m. Letters for the sign must be at least 1 inch tall on a contrasting background.

#### **5.28.110 Application of chapter.**

(Sec. 11 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

#### **5.28.115 Approved storage facilities required.**

Temporary fireworks storage locations and facilities shall be approved in conjunction with issuance of the permit authorizing the retail sale of fireworks pursuant to Chapter 70.77 RCW and Chapter 212-17 WAC. Stocks of common fireworks remaining unsold after the lawful period of retail sale provided for in Section 5.28.040 shall be removed on or before 11:59 p.m. July 15th of the same year to a storage facility approved pursuant to RCW 70.77.420 and 70.77.425. (Sec. 10 of Ord. 1982-05-68; amended by Sec. 8 of Ord. 1999-12-01)

#### **5.28.120 Interpretation and construction of chapter.**

(Sec. 12 of Ord. 1977-06-2; repealed by Sec. 14 of Ord. 1982-05-68)

#### **5.28.130 Enforcement.**

The Clark County fire marshal is hereby designated as the enforcing officer of the chapter. In addition, any penalty for violating any provision of Chapter 70.77 RCW, this chapter, or a permit issued hereunder, any failure or refusal on the part of a permittee to obey any rule, regulation or request of the fire marshal concerning fireworks shall be grounds for the revocation of a fireworks permit. (Sec. 13 of Ord. 1977-06-2; amended by Sec. 11 of Ord. 1982-05-68)

**5.28.135 Seizure of fireworks.**

Any fireworks which are illegally sold, offered for sale, used, discharged, possessed or transported in violation of the provisions of this chapter shall be subject to seizure by the county fire marshal or any commissioned employee of the fire marshal's office. Any fireworks seized under this section may be disposed of by the fire marshal by summary destruction at any time subsequent to expiration of an applicable appeal deadline or an order/judgment approving destruction, if applicable, under the provisions of Section 5.28.137, whichever is later. (Sec. 12 of Ord. 1982-05-68)

**5.28.137 Seizure of fireworks—Petition for return—Decision—Judicial action.**

Any person whose fireworks are seized under the provisions of Section 5.28.135 may within ten (10) days after such seizure petition the board of county commissioners of Clark County to return the fireworks seized upon the ground that such fireworks were illegally or erroneously seized. Any petition filed hereunder shall be considered by the board within fifteen (15) days after filing and a hearing granted the petitioner, if requested. Notice of the decision of the board shall be served upon the petitioner. The board may order the fireworks seized under this chapter disposed of or returned to the petitioner if illegally or erroneously seized. The determination of the board is final unless within thirty (30) days an action is commenced in the Superior Court for Clark County, state of Washington, for the recovery of the fireworks seized by the fire marshal. (Sec. 13 of Ord. 1982-05-68)

**5.28.140 Penalty.**

(1) Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined not exceeding five hundred dollars (\$500) or by imprisonment in the county jail for a period not exceeding ninety (90) days or by both such fine and imprisonment.

(2) If, in the reasonable exercise of its discretion, the fire marshal believes that a civil citation is warranted, in lieu of prosecution, he shall issue a citation under Title 32 for minor violations by first-time offenders. (Sec. 13 of Ord. 1977-06-2; amended by Sec. 9 of Ord. 1999-12-01)

**Standards for 2006** (Not subject to codification).

245 For 2006, there shall be 37 permits. For the purposes of CCC 5.28.015(2) and  
246 CCC 5.28.060(1), transfers by existing permit holders to VNHRT shall be  
247 documented by a signed statement from the transferring entity. Thereafter, the  
248 transferred permit will be issued in the name of the VNHRT.

249

250

251

252